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WINPAC FOR LIEPMAN

E.O. 12958: N/A

TAGS: [PARM](#) [PREL](#) [CWC](#)

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): 1ST MEETING OF  
LEGAL EXPERTS AT OPCW

This is CWC-123-03.

1. (U) Summary. Two USG legal experts (Bernard Seward from State/L/ACV - JAGLCS/CLAMO and Randy Pratt from Commerce/OGC/IS) participated in the first meeting of the CWC "Network of Legal Experts" November 4-7, supported by the Commerce representative to the U.S. CWC Delegation (Brandon Williams). The meeting was useful in providing information about the status of implementing legislation in the 37 States Parties participating and in identifying how the USG may assist interested governments in taking steps toward full implementation of the Convention. End Summary.

2. (SBU) Attendance: 37 countries sent representatives to the initial meeting of the CWC Legal Experts Network (LEN)- Algeria, Argentina, Austria, Bangladesh, Belarus, Benin, Burundi, Cameroon, Canada, Czech Republic, El Salvador, Ethiopia, Gabon, Georgia, Germany, Indonesia, Kuwait, Kyrgyzstan, Malawi, Mexico, Moldova, Morocco, Nicaragua, Nigeria, Palau, Peru, St. Vincent and Grenadines, Serbia and Montenegro, Spain, Sri Lanka, Togo, Trinidad and Tobago, Uganda, UK, USA, Uzbekistan and Viet Nam. Japan and Iran attended intermittently but did not actively participate. Key legal and other assistance donor countries such as France and Australia were missing, and others such as Canada, UK, and Germany attended only the presentations and otherwise participated only minimally. Members of their National Authority or their general legislative drafting departments represented most recipient countries.

3. (SBU) Comment: According to Technical Secretariat (TS) Legal Officer Lisa Tabassi, more countries were interested in participating. However, the TS originally planned for participation of only 36 countries, so certain countries which had expressed interest, but which had recently received sponsorship to other fora were not funded and so did not participate. End Comment.

4. (U) The first two days of CWC LEN meeting were dedicated to TS and national presentations. Tabassi began by framing the discussions for participants by referencing the Action Plan for Article VII and how the Convention and its comprehensive implementation complement global counter-terrorism efforts. Tabassi also discussed various legal issues including the need to provide legal authority over "free zones" and "free ports" in CWC implementing legislation and the need to account for the obligation to provide legal assistance to other States Party to prosecute violations of laws prohibiting CW activities. TS Policy Officer Trapp then provided a detailed brief on the Action Plan for implementation recently adopted by the OPCW CSP.

5. (SBU) Status of implementing legislation: The attendees then briefed their status as follows:

-- (SBU) Comprehensive legislation enacted - 11 (Austria, Belarus, Canada, Czech Republic, Ethiopia, Germany, Peru, St. Vincent and Grenadines, Spain, UK, and USA). Of these, Austria, Canada, and Spain indicated updates to legislation are in process to fill remaining gaps.

-- (SBU) Legislation drafted but awaiting Cabinet/Legislative approval - 3 (Bangladesh, Morocco, Trinidad and Tobago)

-- (SBU) In process of drafting - 14 (Algeria, Argentina, Benin, Burundi, Georgia, Indonesia, Kyrgyzstan, Mexico, Nigeria, Palau, Serbia and Montenegro, Sri Lanka, Uzbekistan, Viet Nam)

-- (SBU) Nothing - 9 (Cameroon, El Salvador, Gabon, Kuwait, Malawi, Nicaragua, Moldova, Togo, Uganda).

6. (SBU) During presentation of national statements, Togo and Nigeria publicly specifically requested U.S. help while a number of other countries also privately approached the Del for assistance (see para X.). The representatives from

Nigeria, Uganda, Sri Lanka, and Bangladesh seemed inclined to use the TS model law provided in its "National Legislation Implementation Kit." Moldova, Republic of Serbia and Montenegro, Trinidad and Tobago, and Togo were interested in how to implement their laws once they are passed, and/or being able to describe the resources and regulatory measures that will be required for implementation during the current consideration of legislation.

17. (SBU) Most of the countries that had not enacted comprehensive legislation reported that they currently were relying on scattered existing legislation for possible enforcement actions, primarily penal code provisions on poisons and dangerous substances, environmental regulations, and customs laws. They recognized, however, that overall legislation to fill in the gaps, modernize their laws and provide for declarations and inspections is necessary.

18. (U) On Nov. 6, to facilitate language-based group discussion, attendees were divided into UN-based language groups. The U.S. joined the so-called "English speaking" group (which consisted of all countries that did not speak Russian, Spanish, Arabic, Chinese or French - around 20 countries). No agenda or moderator was provided by the TS so each group decided for itself what it would do. The English-speaking group decided to use the time to engage in bilateral consultations (see para X).

19. (SBU) Del conducted bilateral discussions with Vietnam, Indonesia, Trinidad and Tobago, Serbia and Montenegro, Togo, Uganda, and Nigeria each of whom requested specific U.S. implementation support to facilitate development of a national authority and facilitate enactment of legislation. Most requests were for assistance in educating government ministries, industry and legislators as to the requirements of the CWC, rather than drafting or other legal assistance. Discussions surfaced a general theme of implementation support needs for implementation information and guidance, industry outreach seminar assistance and government personnel training. Bangladesh, Sri Lanka, and Cameroon also expressed interest in assistance, but indicated that timing of such assistance should follow enactment of legislation. Del provided each representative with USG contacts for written requests (State/National Authority - Sidler and CWDel member - Williams) to initiate dialogue on implementation support type, timing and intensity.

10. (U) At a sparsely-attended Nov. 7 meeting of the "English-speaking" group, TS Policy Officer Trapp attempted to solicit ideas as to what legal assistance could be provided in the future by the CWC Legal Experts Network (LEN) and through what mechanisms. In the absence of any reaction, USDEL led off with its view:

-- (U) Having many of the actual legislative drafters present was very useful in providing an accurate assessment of the current state of affairs regarding implementing legislation in the countries represented.

-- (U) The informal, experts nature of the meeting greatly assisted the free flow of information and should be continued. The establishment of points of contact for legislation greatly improves communication and provides a conduit for follow-on bilateral and TS action.

-- (U) USG CWC legal experts Seward and Pratt were available to review draft legislation and regulations and discuss legal issues, either directly or as part of submissions to the TS Office of the Legal Adviser.

-- (U) The USG was prepared to entertain requests for other forms of implementation assistance such as brochures explaining the CWC to industry or conducting information seminars. While USG CWC legal experts could not receive official requests for resource, information or other non-legal forms of assistance, they could provide information on how to formally request assistance and would alert the USG that specific countries were inquiring about assistance. (Information on USG contacts for such requests -- CWDEL member Williams and State/MA Sidler -- was subsequently distributed.)

-- (U) The TS should set up a password-protected area for the confidential exchange of information among experts. This

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forum should be the main focal point for coordination of the LEN, augmented by annual meetings. The TS should also solicit information for and post an informal quarterly update of the progress countries were making in drafting/passing/implementing their legislation and regulations. This site should include copies of national statements presented during the LEN meeting.

11. (U) There were few other responses. Sri Lanka liked the idea of a quarterly report. Trinidad and Tobago asked for TS

assistance for the Caribbean regional group and stressed the need for more interaction among the LEN participants, specifically requesting establishment of a Commonwealth-based review and coordination group for legislation.

¶12. (U) The TS (Trapp) indicated it would be setting up the website for coordination, will consider annual meetings of the LEN to monitor and encourage progress, and will solicit other States Parties participation with a focus on linking donors to recipients.

¶13. (U) Javits sends.  
SOBEL